

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zachary Herman	Team: Squad #12	CCRB Case #: 201907774	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/24/2019 11:20 PM, Sunday, 08/25/2019 1:00 AM, Saturday, 08/31/2019 4:32 PM	Location of Incident: Sutter Avenue between Thomas Boyland Street and Bristol Street; 73rd Precinct Stationhouse	Precinct: 73	18 Mo. SOL 2/24/2021	EO SOL 10/11/2021	
Date/Time CV Reported Sat, 08/31/2019 4:32 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 08/31/2019 4:32 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Keith Stark	03636	961325	073 PCT
2. POM Daniel Twohig	01924	962141	073 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jerry Celus	24856	962305	073 PCT
2. POM Troy Hill	05374	966624	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Keith Stark	Abuse: On August 24, 2019, Police Officer Keith Stark stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were a occupants.	
B.POM Keith Stark	Abuse: On August 24, 2019, Police Officer Keith Stark frisked § 87(2)(b)	
C.POM Daniel Twohig	Abuse: On August 24, 2019, Police Officer Daniel Twohig searched § 87(2)(b)'s property.	
D.POM Daniel Twohig	Abuse: On August 24, 2019, Police Officer Daniel Twohig searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
E.POM Keith Stark	Abuse: On August 24, 2019, Police Officer Keith Stark seized § 87(2)(b)'s property.	
F. An officer	Abuse: On August 25, 2019, an officer did not process § 87(2)(b)'s complaint regarding officers.	
G. An officer	Abuse: On August 31, 2019, an officer did not process § 87(2)(b)'s complaint regarding officers.	

Case Summary

On August 31, 2019, § 87(2)(b) filed this complaint via the CCRB's website.

On August 24, 2019, at approximately 9:20 p.m., in the vicinity of Sutter Avenue between Thomas Boyland Street and Bristol Street in Brooklyn, PO Keith Stark and PO Daniel Twohig of the 73rd Precinct stopped § 87(2)(b)'s vehicle, in which his friend, § 87(2)(b) was a passenger (**Allegation A: Abuse of Authority, § 87(2)(g)**). After a brief conversation, § 87(2)(b) exited the vehicle and PO Stark frisked him (**Allegation B: Abuse of Authority, § 87(2)(g)**). PO Twohig, after requesting § 87(2)(b) step out of the vehicle, searched § 87(2)(b)'s property (**Allegation C: Abuse of Authority, § 87(2)(g)**). PO Twohig then searched the vehicle (**Allegation D: Abuse of Authority, § 87(2)(g)**). PO Stark took § 87(2)(b)'s driver's license and did not return it (**Allegation E: Abuse of Authority, § 87(2)(g)**).

On August 25, 2019, at some point after 12:00 a.m. but within approximately one hour of 12:00 a.m., § 87(2)(b) traveled to the 73rd Precinct stationhouse and attempted to file a civilian complaint, an officer allegedly refused to complete the paperwork (**Allegation F: Abuse of Authority, § 87(2)(g)**). On August 31, 2019, at an unknown time, § 87(2)(b) traveled to the 73rd Precinct stationhouse and attempted to file a civilian complaint, an officer whom § 87(2)(b) interacted with that afternoon allegedly did not offer to complete complaint paperwork for § 87(2)(b) (**Allegation G: Abuse of Authority, § 87(2)(g)**).

Body-Worn Camera (BWC) footage was received from the NYPD Legal Bureau (BR04-BR05), cell phone video of a portion of the incident was recorded and provided by § 87(2)(b) (BR24), and the footage was summarized (BR06-BR07; BR25, respectively).

Findings and Recommendations

Allegation (A) Abuse of Authority: On August 24, 2019, Police Officer Keith Stark stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Stark stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants on August 24, 2019, at approximately 11:20 p.m., on Sutter Avenue between Thomas Boyland Street and Bristol Street in Brooklyn.

§ 87(2)(b) testified that he did not commit any traffic violations while driving on the night of August 24, 2019 prior to being stopped (BR03). He was driving his mother's vehicle and was not aware of any defects to the vehicle. When § 87(2)(b) asked why he was stopped, PO Stark stated that the vehicle's rear license plate light was "out." § 87(2)(b) did not know whether this light was non-functional at the time of the incident but stated to the CCRB that, at the time of his CCRB interview, the light was functioning.

BWC from PO Stark shows PO Stark stating he stopped § 87(2)(b) because his rear license plate light was out at 00:28 (BR04, BR06). The video does not capture whether § 87(2)(b) s vehicle had a functioning plate light at the time of the stop.

In his CCRB testimony, PO Stark stated he observed § 87(2)(b) s vehicle commit a traffic violation but did not recall what specific traffic violation he observed § 87(2)(b) commit (BR09). PO Twohig testified he did not recall observing any traffic violations or visible defects on § 87(2)(b) s vehicle prior to stopping the vehicle. PO Twohig did not recall why he and PO Stark stopped the vehicle (BR10).

§ 87(2)(g)

Allegation (B) Abuse of Authority: On August 24, 2019, Police Officer Keith Stark frisked

§ 87(2)(b)

Allegation (C) Abuse of Authority: On August 24, 2019, Police Officer Daniel Twohig searched § 87(2)(b) s property.

Allegation (D) Abuse of Authority: On August 24, 2019, Police Officer Daniel Twohig searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Stark frisked § 87(2)(b) and that PO Twohig searched § 87(2)(b) s vehicle and § 87(2)(b) s bag.

In his testimony to the CCRB, § 87(2)(b) denied ever smoking marijuana in his vehicle.

PO Stark and PO Twohig consistently testified that they smelled marijuana emanating from the vehicle. Neither officer could recall where the smell specifically emanated from within the vehicle, whether the odor was of burnt or unburnt marijuana, or the relative strength of the odor. PO Stark then frisked § 87(2)(b) to determine if § 87(2)(b) had any contraband or weapons on his person and to ensure officer safety. PO Twohig searched § 87(2)(b) s bag to determine if the bag contained any contraband or weapons.

Body-worn camera footage and civilian-provided cell phone footage obtained in the investigation was not corroborative of either § 87(2)(b) s or the officers' statements regarding marijuana.

§ 87(2)(b) refused to provide a statement to the CCRB regarding this incident.

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: On August 24, 2019, Police Officer Keith Stark seized § 87(2)(b)'s property.

§ 87(2)(b) stated he provided his ID to PO Stark and, after the officers had left the scene, realized that it had not been returned to him. § 87(2)(b) traveled § 87(2)(b) traveled to the stationhouse at approximately 12:00 a.m. on August 25, 2019 to attempt to recover his identification, and again before 4:32 p.m. on August 31, 2019. § 87(2)(b) did not retrieve his identification in the course of either trip to the 73rd Precinct stationhouse, and the officers with whom he spoke denied that the NYPD had custody of it.

PO Stark testified that he took § 87(2)(b)'s ID from him, then handed it across the top of the vehicle to PO Twohig. PO Twohig testified that he took § 87(2)(b)'s ID, ran it in his department cell phone for warrants, then either left it on the front seat or returned it to § 87(2)(b).

The final location of § 87(2)(b)'s ID was not determinable via BWC footage or civilian cell phone footage.

§ 87(2)(g)

Allegation (F) Abuse of Authority: On August 25, 2019, an officer did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) testified to the CCRB that he traveled to the 73rd Precinct stationhouse at approximately 1:00 a.m. on August 25, 2019 and spoke to a black male police officer with a silver shield and a shaved head. He requested to file a civilian complaint. This officer pointed out a sign in the lobby with the CCRB's phone number on it but otherwise did not assist § 87(2)(b) or provide him a civilian complaint form.

The Tour 1 ARCS from the 73rd Precinct from August 25, 2019 showed that PO Michaela Ivasan was listed as the Telephone/Switchboard (T/S) operator, and PO Belinda Diaz was listed as Stationhouse Security (BR20). Both officers stated to the CCRB that they were not present in the 73rd Precinct stationhouse at the time of the incident (BR22, BR23). The Tour 1 roll call from August 25, 2019 listed PO Joseph Rivera as the T/S operator and Sgt. Michele Drago as the Desk Officer (BR19). In his interview with the CCRB, PO Rivera did not recall interacting with any civilians on the date of the incident (BR21). PO Rivera has brown hair per his pedigree sheet provided on the date of his interview. Sgt. Drago testified to the CCRB that she did not recall speaking with any civilians on the incident date or receiving any information regarding any civilian who wished to file a complaint against an officer on August 25, 2019 (BR14).

§ 87(2)(g)

Allegation (G) Abuse of Authority: On August 31, 2019, an officer did not process § 87(2)(b) s complaint regarding officers.

On August 31, 2019, immediately prior to filing this complaint with the CCRB at 4:32 p.m., § 87(2)(b) went to the 73rd Precinct stationhouse. When he entered the lobby, § 87(2)(b) stated he wanted to make a report against a police officer. A female officer went through the double doors and returned a short time later. She stated that her sergeant had told her that he needed to call and gestured to a sign for the CCRB. She did not offer a complaint form or offer to complete a complaint form. After leaving the stationhouse, § 87(2)(b) filed this complaint with the CCRB.

In his testimony to the CCRB, Sgt. Liguori stated that on August 31, 2019, he was the Desk Officer for the 73rd Precinct for Tour 2. Sgt. Liguori did not recall interacting with any civilians, including those intending to file a complaint, during his tour on August 31, 2019. When Sgt. Liguori was shown a photo of § 87(2)(b) taken at the CCRB, he did not recall ever having interacted with § 87(2)(b). He did not recall if § 87(2)(b) had come to the 73rd Precinct stationhouse and did not recall if § 87(2)(b) had requested to file a complaint. Sgt. Liguori did not recall if any officer had informed him of any civilian who had arrived at the stationhouse to file a complaint (BR13).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR02).
- PO Keith Stark has been a member of service for four years and has been the subject of five complaints and eleven allegations, none of which were substantiated. § 87(2)(g)
- PO Daniel Twohig has been a member of service for four years, and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.

